

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of the:

Appeal from Board of Stewards Official
Ruling #31, Capitol Racing
Association, Dated May 20, 2000

ELISA ONNIAS,

Appellant.

Case No. SAC 00-037

OAH No. N-2000070432

PROPOSED DECISION

Administrative Law Judge Catherine B. Frink, State of California, Office of Administrative Hearings ("OAH") heard this matter in Sacramento, California on July 27, 2000.

Martin J. Snezek II, Senior Special Investigator, represented the California Horse Racing Board ("CHRB").

Appellant did not appear at hearing and was not otherwise represented.

Evidence was received, the hearing was closed, and the matter was submitted for decision on July 27, 2000.

**APPELLANT'S FAILURE TO APPEAR
AT ADMINISTRATIVE HEARING**

Notice of the date, time and place of hearing was served on appellant by certified mail on June 6, 2000 at her address of record: P.O. Box 7134, Auburn, California 95604. The green certified mail return receipt shows that appellant signed for the Notice of Hearing on July 19, 2000.

On July 26, 2000, appellant contacted OAH by telephone to request a continuance of the hearing due to purported medical problems. Appellant was instructed to file a written request for continuance under penalty of perjury, and to supply written verification of her inability to attend the hearing from her treating physician. Appellant filed the written request for continuance but did not include medical verification of incapacity. A voice mail message was left for appellant again instructing her to submit medical verification. Appellant was informed that the matter would remain on calendar pending receipt of the required information. No medical verification of incapacity was subsequently received from appellant.

Despite proper service of the Notice of Hearing, respondent did not appear and was not otherwise represented at hearing. Upon proof of compliance with Government Code sections 11505 and 11509, the matter proceeded as a default pursuant to Government Code section 11520.

BACKGROUND

On May 17, 2000, the Board of Stewards (“Stewards”) of the CHRB, Capitol Racing Association at Cal Expo, Sacramento, California, conducted a hearing in response to a complaint filed by Dr. Jack Abrahams, D.V.M. against trainer Elisa Onnias (“appellant”), Case No. 00SW-005. The complaint alleged violations of specified provisions of Title 4, California Code of Regulations (“Rules”), namely Rule 1876, Financial Responsibility.

On May 20, 2000, the Stewards issued a Statement of Decision in Case No. 00SW-005, which included Findings of Fact, Conclusion, and Ruling #31, as set forth below. The Stewards made the following Findings of Fact:

1. On June 19, 1999, Dr. Abrahams provided veterinarian services on the horse “Red Dust.” A bill was presented to Onnias for \$96.00
2. On June 25, 1999 Dr. Abraham provided veterinary services on the horse “Super Sac.” A bill was presented to Onnias for \$120.00
3. On November 15, 1999, Onnias was served with notice for hearing at the Placer County Superior Court, Small Claims Division scheduled for January 13, 2000.
4. A hearing was held in Placer County Superior Court on January 13, 2000. A default judgement was entered ordering Onnias to pay Dr. Abrahams forthwith.
5. Onnias was noticed to appear before the Board of Stewards at Cal Expo in response to case # 00SW-005.

6. In the Board of Stewards hearing Onnias admitted under oath that Dr. Abrahams provided the services.

7. The court findings were within the definition of California Horse Racing Board Rule # 1876 (Financial Responsibility)

The Stewards concluded that the veterinary services were performed by Dr. Abrahams after such services were requested by appellant, and that appellant was provided opportunity to dispute any and all charges at the January 13, 2000 hearing. Her failure to appear at the hearing and argue her position carried the same weight as an admission. No further action has been taken by any civil court. The stewards determined that good cause exists to order appellant to pay said civil judgment.

Based on the Findings of Fact and Conclusion, the Stewards issued Ruling #31, which provided as follows:

“PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528 (JURISDICTION OF STEWARDS), TRAINER ELISA ONNIAS, FOR GOOD CAUSE IS HEREBY ORDERED TO COMPLY WITH PLACER COUNTY SUPERIOR COURT JUDGMENT #RSC—0811, DATED JANUARY 13, 2000 ON OR BEFORE MAY 30, 2000.

“FAILURE TO COMPLY SHALL RESULT IN SUSPENSION OF LICENSE PRIVILEGES.”

Appellant filed a timely appeal from the Stewards’ Statement of Decision and Ruling #31. On June 6, 2000, appellant filed a written request for a stay of the suspension of her trainer’s license. On June 6, 2000, an Order Denying Stay was issued by Roy C. Wood, Jr., Executive Director, on behalf of the CHRB. On June 8, 2000, appellant complied with Placer County Superior court Judgement No. RSC—09811 by paying \$280.53, Check No. 717, to Dr. Jack Abrahams.

STANDARD OF REVIEW

Under Rule 1761, every decision of the Stewards, except a decision concerning disqualification of a horse due to a foul or a riding or driving infraction, may be appealed to the CHRB. Under Business and Professions Code section 19517(a), the CHRB may overrule a Stewards’ decision if a preponderance of the evidence indicates that the Stewards mistakenly interpreted the law, new evidence of a convincing nature is produced, or the best interests of racing and the state may be better served. Pursuant to Rule 1764, the burden shall be on the appellant to prove facts necessary to sustain the appeal.

REVIEW

Rule 1528 states as follows:

“The stewards’ jurisdiction in any matter commences at such time as entries are taken for the first day of racing at the meeting and extends until thirty (30) days after the close of such meeting. However, the Executive Director or the Board may delegate the authority to adjudicate any matter occurring at any racing meeting to another Board of Stewards at any time. The stewards may suspend the license of anyone whom they have the authority to supervise or they may impose a fine or they may exclude from all inclosures in this State or they may suspend, exclude and fine. All such suspensions, fines or exclusions shall be reported immediately to the Board.”

Rule 1876 states as follows:

“(a) No licensee shall willfully and deliberately fail or refuse to pay any moneys when due for any service, supplies or fees connected with his or her operations as a licensee, nor shall he or she falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying or defrauding the person to whom such indebtedness is due.

“(b) Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due, or by a judgment from a civil court which has been issued within one year of the date of the complaint.

“(c) The Board will not consider a financial complaint made by the complainant against the same accused within twenty-four months of the filing of the instant complaint.

“(d) The Board will consider only those financial responsibility complaints which meet the following criteria:

“(1) The complaint involves services, supplies or fees that are directly related to the licensee’s California racetrack operations; and

“(2) The debt or cause for action originated, or the civil court judgement was issued, in this State within one year of the filing of the complaint.”

The complaint filed by Dr. Abrahams against appellant fully complied with the provisions of Rule 1876. Under Rule 1528, the Stewards have the authority to suspend a trainer under the circumstances set forth herein. Appellant submitted no evidence or argument in support of her appeal, despite being given notice and an opportunity to appear.

LEGAL CONCLUSIONS

A review of the entire record before the CHRB reveals that the Stewards did not mistakenly interpret the law and that no new evidence of a convincing nature was produced at hearing. It was not established that the best interests of racing and the state may be better served by granting the appeal herein.

ORDER

The Board of Stewards' Ruling #31, Capitol Racing Association, dated May 20, 2000, against trainer Elisa Onnias, is upheld, and the appeal is dismissed.

Dated: _____

CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings